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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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RICHARD I. CHAPMAN, as personal representative of the estate of Daphne Ellen Holtgrieve,

Plaintiff,

v.

BONNEVILLE POWER ADMINISTRATION,

Defendant.

CASE NO. C12-5688 BHS

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

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This matter comes before the Court on Defendant Bonneville Power Administration's ("BPA") motion to dismiss (Dkt. 8). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby grants the motion for the reasons stated herein.

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I. PROCEDURAL HISTORY

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On August 2, 2012, Plaintiff Richard I. Chapman, as personal representative of the estate of Daphne Ellen Holtgrieve ("Chapman"), filed a complaint against BPA requesting declaratory relief over an apparent disputed easement that was granted in 1940. Dkt. 1.

ORDER - 1

1   On October 3, 2012, BPA filed a motion to dismiss (Dkt. 8) and then filed an

2 amended motion to dismiss the next day (Dkt. 10). BPA attached to the motion a

3 certification that the motion was sent via first class mail to Chapman. *Id.* at 8. Chapman

4 failed to respond.

5   **II. DISCUSSION**

6   As a threshold matter, the Court considers Chapman's failure to respond as an

7 admission that BPA's motion has merit. Local Rule CR 7(b)(2).

8   With regard to the merits of the motion, BPA argues that the Court should dismiss

9 the complaint because (1) an estate may not be represented *pro se* and (2) the statute of

10 limitations has run on Chapman's claim. Dkt. 10. The Court agrees. *See Iannaccone v.*

11 *Law,* 142 F.3d 553, 559 (2nd Cir. 1998) (administrator of estate may not appear *pro se* on

12 behalf of estate); 28 U.S.C. § 2409a(g) (twelve year statute of limitation).

13   **III. ORDER**

14   Therefore, it is hereby **ORDERED** that BPA's motion to dismiss (Dkt. 8) is

15 **GRANTED** and the Clerk shall close this case.

16   Dated this 13th day of December, 2012.

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19   BENJAMIN H. SETTLE
                                     United States District Judge

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ORDER - 2